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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/298,726 04/23/99 MADDALON

V 06023-71 (MI/

EXAMINER

000570 QM32/1205
AKIN GUMP STRAUSS HAUER & FELD LLP.
ONE COMMERCE SQUARE
2005 MARKET STREET SUITE 2200
PHILADELPHIA PA 19103

DEXTER C

ART UNIT

PAPER NUMBER

3724

DATE MAILED:

12/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/298,726

Applicant(s)
Maddalon

Examiner
Clark F. Dexter

Group Art Unit
3724



☒ Responsive to communication(s) filed on Sep 21, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 2, and 8 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, and 8 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Sep 21, 2000 is ☒ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. The amendment filed September 21, 2000 has been entered.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on September 21, 2000 have been **approved**.

Claim Rejections - 35 USC § 112

3. Claims 1, 2 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 4 is vague and indefinite since it appears that the invention is being positively defined in terms of the workpiece which is not part of the invention, and it is suggested to reinsert --for-- before "feeding" or the like.

Claim Rejections - 35 USC § 102/103

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Roy et al.

Roy et al. discloses a cutting device with every structural limitation of the claimed invention including a first pair of rollers (e.g., 56, 62) which are coupled and thus driven together by a first motor; a cutting assembly (e.g., 60) which is driven by a second motor; a third motor (e.g., 84) pivoting one of the cutting assembly and the pair of rollers; a reading system having first (e.g., 58A) and second (e.g., 58B) spaced apart optical sensors; and a microprocessor (e.g., 30).

In the alternative, if it is argued that Roy et al. does not explicitly disclose a first motor and a second motor, the Examiner takes Official notice that such a configuration is old and well known in the art for various known benefits including providing separate control to individual components as desired. Therefore, it would have been obvious to one having ordinary skill in the art to provide a first and second motor for the well known benefits including that described above.

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Claim Rejections - 35 USC § 103

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy et al.

Roy et al. lacks the cutting assembly having first and second parallel spaced apart blades. However, the Examiner takes Official notice that such a cutter configuration is old and well known in the art and provides various well known benefits including facilitating the making of two parallel cuts simultaneously for various well known benefits including cutting strips with parallel borders. Therefore, it would have been obvious to one having ordinary skill in the art to provide first and second parallel spaced apart blades for the well known benefits including that described above.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703)308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.



**Clark F. Dexter
Primary Examiner
Art Unit 3724**

cf
December 4, 2000

ATTACHMENT TO AND MODIFICATION OF
NOTICE OF ALLOWABILITY (PTO-37)

(November, 2000)

NO EXTENSIONS OF TIME ARE PERMITTED TO FILE CORRECTED OR FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION, notwithstanding any indication to the contrary in the attached Notice of Allowability (PTO-37).

If the following language appears on the attached Notice of Allowability, the portion lined through below is of no force and effect and is to be ignored¹:

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to comply will result in ABANDONMENT of this application. ~~Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).~~

Similar language appearing in any attachments to the Notice of Allowability, such as in an Examiner's Amendment/Comment or in a Notice of Draftperson's Patent Drawing Review, PTO-948, is also to be ignored.

¹ The language which is crossed out is contrary to amended 37 CFR 1.85(c) and 1.136. See "Changes to Implement the Patent Business Goals", 65 Fed. Reg. 54603, 54629, 54641, 54670, 54674 (September 8, 2000), 1238 Off. Gaz. Pat. Office 77, 99, 110, 135, 139 (September 19, 2000).